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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/573,740

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Jan Alfons Catharina Mewissen-Scholberg

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

HELLING, KAITLYN ELIZABETH

ART UNIT

PAPER NUMBER

3739

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/573,740	<b>Applicant(s)</b> MEWISSEN-SCHOLBERG ET AL.	
	<b>Examiner</b> KAITLYN E. HELLING	<b>Art Unit</b> 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/08/2008</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. The Amendment filed on December 17, 2008 has been entered. Claims 1-13 remain pending in the application.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5-7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 4, 498, 005 to Mutzhas (Mutzhas) in view of U.S. 3,048,741 to Thouret (Thouret).

Regarding claim 1, Mutzhas teaches a tanning apparatus (title and abstract) for radiation treatment for personal care (abstract) comprising at least one gas discharge UV lamp (7, Fig. 5 and Col. 2, lines 3-5), at least one ballast (devices for operation for the production of the ignition voltage as stated in the abstract) which is generally connected in series with the UV lamp (Col. 2, lines 15-17) and the inclusion of a reflector (10, Fig. 5, Col. 2, lines 62-65 and Col. 5, line 15). However, Mutzhas does not teach an incandescent lamp separate from the gas discharge lamp wherein the incandescent lamp is included in the ballast or that the incandescent lamp is also included in the reflector. Thouret, however, teaches a ballast connected in series with a arc lamp (Fig. 1A and B and Col. 1, lines 18-24), and at least one incandescent lamp (Col. 1, lines 21-23) separate from the at least one arc lamp (fig. 1A and B and Col.2,

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lines 22-25), characterized in that said at least one incandescent lamp is included in said at least one ballast (Col. 1, lines 21-23). It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the tanning apparatus of Mutzhas with the ballasting system of Thouret since Thouret discloses that an incandescent filament can be used as a stabilizing ballast for an arc discharge lamp without the use of external transformers, inductive reactors or other similar external ballasting means (Col. 1, lines 18-26) and that housing the incandescent tungsten filament separate from the arc lamp will prevent evaporated tungsten from blackening the inner surface of the lamp outer envelope or the outer surface of the arc tube thus increasing the life of the tungsten filament (Col. 2, lines 20-23).

With regard to the incandescent lamp being within the reflector as well as the UV lamp, this would inherently flow from the arrangement of Thouret (see Figs. 1-6). Therefore it would have been obvious to have included the incandescent lamp within the reflector housing the UV lamp as a simple rearrangement of parts necessitated by using the self-ballasted arc lamp of Thouret.

Regarding claims 5-7, Mutzhas in view of Thouret teaches the apparatus of claim 1, and with regard to the specifics of the reflectors, it is inherent that the reflectors will concentrate the radiation from the incandescent and UV lamps. The arrangement of the reflectors to produce the broadly recited differences in the angles and radiation direction does not render the claim patentably distinct. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Mutzhas

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and Thouret with various reflector placements as an obvious matter of design choice (See MPEP 2144.04).

Regarding claim 11, Mutzhas in view of Thouret teaches the apparatus of claim 1, with Thouret teaching the further limitation of the incandescent lamp mounted to the same housing in which the UV lamp is arranged (Fig. 1A and B). It would have been obvious to one having ordinary skill in the art at the time of the invention to have mounted the incandescent lamp in the same housing since Thouret teaches a self-ballasting lamp (title).

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 4,498,005 to Mutzhas and U.S. 3,048,741 to Thouret as applied to claim 1 above, and further in view of U.S. 4,340,843 to Anderson (Anderson).

Mutzhas in view of Thouret teaches the apparatus of claim 1, but not the igniter circuit. Anderson teaches the additional limitations of including at least one igniter circuit (Col. 3, lines 5-15) for generating a voltage peak for starting up an arc through the a gas discharge lamp (Col. 3, lines 5-15), wherein said igniter circuit is connected to said incandescent lamp and to said gas discharge UV lamp via an input conductor (Fig. 1), and wherein said igniter circuit is connected for outputting a current pulse to the at least one gas discharge lamp via an output conductor separate from said input conductor (Fig. 1 and Col. 2 lines 47-61). It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Mutzhas and Thouret with the igniter circuit of Anderson in order to ensure the maintenance of the arc and prevent it from extinguishing when the arc current becomes reduced (Col. 1, lines 64-68).

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5. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 4, 498, 005 to Mutzhas and U.S. 3,048,741 to Thouret as applied to claim 1 above, and further in view of U.S. 4,287,454 to Feuersanger et al. (Feuersanger).

Mutzhas and Thouret teach the apparatus of claim 1, but not the use of a high intensity discharge lamp and more specifically a metal halide lamp. Feuersanger, however, teaches high intensity gas discharge lamps such as metal halide lamps as providing significantly higher efficiencies (Col. 1, lines 10-14). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Mutzhas and Thouret with the high intensity discharge lamp, more specifically a metal halide lamp, in order to achieve the higher efficiency that the lamp provides as taught by Feuersanger (Col. 1, lines 10-14).

6. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 4, 498, 005 to Mutzhas and U.S. 3,048,741 to Thouret as applied to claim 1 above, and further in view of U.S. 4,309,616 to Wolff (Wolff).

Mutzhas and Thouret teach the apparatus of claim 1, but not the use of a filter for filtering the UV radiation for the UV lamp. Wolff, however, teaches the use of a suitable filter means for intercepting at least the major percentage of predetermined wavelength bands of ultraviolet radiation field before it reaches the person so that the radiation field affecting the body consists essentially of the remaining wavelength band preferably between 315 and 400 nanometers (Col. 2, lines 45-59). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have

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modified Mutzhas and Thouret to have used a filter as disclosed in Wolff to intercept the main percentage of the desired wavelengths (Col. 2, lines 50-59).

Also, applicant admits that it is known in the art to provide a filter for shielding the user from the radiation as well as using a UV lamp of lower intensity. Since the filter disclosed is known in the art it will inherently provide, in conjunction with a lower intensity UV lamp, the desired filtering effect of allowing at least 15% of the UV radiation below 320 and 305nm through. Applicant admits that the filter used in the application is known in the art so would therefore have been obvious at the time of the invention.

7. Claims 8, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 4, 498, 005 to Mutzhas and U.S. 3,048,741 to Thouret as applied to claim 1 above, and further in view of U.S. 4,283,661 to Doty (Doty) and the article Non-Coherent Near Infrared Radiation Protects Normal Human Dermal Fibroblasts from Solar Ultraviolet Toxicity to Menezes et al. (Menezes).

Regarding claim 8, Mutzhas and Thouret teach the apparatus of claim 1, but not the inclusion of a switching structure to allow for the independent connection of the incandescent light to the power supply. However, Doty teaches that the use of ultraviolet radiation alone or in combination with infrared radiation is well known for treating humans. Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have included a switching structure if it would be desired to use either the ultraviolet or infrared radiation as an obvious matter of design choice (See MPEP 2144).

Regarding claims 12 and 13, Mutzhas and Thouret teach the apparatus of claim 1, but not the incandescent lamp being an IR lamp or the more specific near IR lamp. Doty, however, teaches the use of ultraviolet radiation in combination with infrared radiation to be well known for treating humans (Col. 1, lines 5-7). Therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Mutzhas and Thouret to have used an IR lamp for the incandescent lamp so as to combine the treatments of ultraviolet and IR radiation as taught by Doty (Col. 1, lines 5-7).

With respect to the use of a near-IR lamp, Menezes discloses that near infrared radiation can protect normal dermal cells from ultraviolet toxicity (Abstract). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have included a near-infrared incandescent lamp with the ultraviolet lamp.

### ***Response to Arguments***

8. Applicant's arguments, see Remarks pages 12-14, filed December 17, 2008, with respect to the rejection(s) of claim(s) 1 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Mutzhas and Thouret.

With regards to Thouret, the examiner maintains that the Thouret reference teaches that the gas discharge lamp and the incandescent lamp are indeed separate from each other. The mere fact that they are integrated or combined together is defined as made up of aspects or parts that work well together. Using this definition, it is clear



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that by integrated Thouret means that the gas discharge lamp and the incandescent lamp are being used together. The fact that they are formed from the same glass tube does not mean that they are not separate as Thouret clearly points out that housing the incandescent filament separate from the arc lamp is advantageous as described above.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. 6,661,177 B2 to Luijks which teaches a high pressure discharge lamp with an ignition circuit including a halogen incandescent lamp and U.S. 4,367,432 to Glenny et al. which teaches an incandescent filament and a high pressure discharge tube which are arranged electrically in series.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAITLYN E. HELLING whose telephone number is (571)270-5845. The examiner can normally be reached on Monday - Friday 7:30 a.m. to 5:00 p.m. EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571)272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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/KAITLYN E HELLING/  
Examiner, Art Unit 3739

/Roy D. Gibson/  
Primary Examiner, Art Unit 3739